

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6778

BILL NUMBER: HB 1114

NOTE PREPARED: Feb 23, 2006

BILL AMENDED: Feb 23, 2006

SUBJECT: Various Property Matters.

FIRST AUTHOR: Rep. Foley

FIRST SPONSOR: Sen. Steele

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill specifies the language sufficient to incorporate by reference a recorded covenant, restriction, easement, or other encumbrance in a conveyance of land. The bill provides that an adverse possessor or claimant who wishes to establish title to land or real estate must pay the taxes and special assessments that the adverse possessor or claimant reasonably believes in good faith to be due on the land or real estate. (Current law requires the adverse possessor or claimant to pay the taxes and special assessments due on the land or real estate.)

This bill requires review and redaction of Social Security numbers in documents filed with the county recorder (in addition to recorded documents.) The bill requires liens (other than federal liens) to have the Social Security numbers redacted from the lien before recording and filing. The bill also reduces the standard for the redaction of Social Security numbers in recorded or filed documents from "to the extent possible" to "to the extent practicable and as permitted by law."

The bill adds a culpability standard for the Class A infraction that may be committed when recorded documents containing Social Security numbers are disclosed by the county recorder's office.

The bill provides that a county recorder shall charge a fee for recording a document. This bill provides the methods of payment that a county recorder may authorize that it may be paid with. This bill also provides that a county recorder may collect a sum if it is charged a fee for the use of a financial instrument or credit card. The bill repeals the duty of an individual preparing a document for recording to affirm under perjury that the individual has reviewed the document and redacted each Social Security number in the document. The bill amends the affirmation regarding redacting a Social Security number that must be attached to a document that

is recorded or filed.

Effective Date: Upon passage; January 1, 2006 (retroactive); July 1, 2006.

Explanation of State Expenditures:

Explanation of State Revenues: *Penalty Provision:* This provision reduces the number of people who could potentially be convicted of committing a Class A infraction. The maximum judgment for a Class A infraction is \$10,000, which would be deposited in the state General Fund.

Explanation of Local Expenditures: (Revised) *County Recorders:* Under current law, beginning January 1, 2008, county recorders will be responsible for searching documents for a Social Security number, redacting documents that contain the number, and recording certification that the individual reviewed the entire document and took reasonable care to redact the Social Security number. Current law also provides for county recorders to comply "to the extent *possible*."

This bill makes it so that county recorders comply "to the extent *practicable and as permitted by law*." This provision may somewhat mitigate costs associated with redacting records. However, the bill repeals the requirement that a document must be redacted and have the certification attached before it may be accepted by a county recorder. The provision could potentially increase the number of documents a county recorder must redact.

Explanation of Local Revenues: (Revised) *Protection Fee:* Current law (P.L. 91-2005) requires county recorders to place two dollars of a recording fee charged under IC 36-2-7-10 (including additional page, cross-referencing, deeds, fax machine transfers, and mortgage and real estate recordings) in the county's identification security protection fund, which is used by the county recorder to purchase, upgrade, implement, or maintain redacting technology.

The bill would specify a two-dollar county identification security protection fee to be assessed for recording or filing a document in addition to any other fees allowed under IC 36-2-7-10. The fee would be deposited in the county's identification security protection fund.

With the establishment of a separate fee, this provision would increase recorder fee revenue to counties. However, with respect to county identification security protection funds, the impact of this provision should be neutral as current law requires two dollars of a fee under IC 36-2-7-10 to go into the account and the changes proposed by the bill would require the same amount to be deposited.

Payment Method: Under the bill, county recorders could accept payment for transactions by cash, check, bank draft, money order, bank/credit card, electronic fund transfer, or by any other authorized financial instrument. Recorders would be allowed to charge a fee on transactions involving credit cards or bank transfers to cover the transaction costs for providing the service. The fee would not exceed the highest transaction charge or discount fee charged to a recorder by a bank or credit card vendor.

Penalty Provision: This provision reduces the number of people who could potentially be convicted of committing a Class A infraction. Local governments receive revenue from court fees when court actions are filed and a judgment is entered.

State Agencies Affected:

Local Agencies Affected: County recorders, trial courts, local law enforcement agencies.

Information Sources:

Fiscal Analyst: Chris Baker, 317-232-9851.